IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 186 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HARMANBHAI OTTAMBHAI

Versus

EXECUTIVE ENGINEER CANAL DVN

Appearance:

MR GM AMIN for Petitioner No. 1-5

MR AJ DESAI, AGP. for Respondent No. 1-2

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE D.A.MEHTA

Date of decision: 13/02/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE N.G.NANDI)

1 Mr.A.J.Desai, learned Assistant Government Pleader has placed on record the additional affidavit-in-reply on record with a copy to the learned Counsel for the petitioner along with the statement in a tabular form in three pages.

2 By this petition under Article 226 of the Constitution of India, the petitioner prays for a writ of mandamus or any other appropriate writ, order or direction against the respondents to pay interest @ 9% for the first year and @ 15% for the remaining years on the amount of compensation awarded by the Special Land Acquisition Officer u/s.11 of the Land Acquisition Act, till the date of deposit of the awarded amount.

3 It is not disputed that in respect of the land of the petitioner Notification u/s.4 of the Act came to be published on 25.10.1979 in the Official Gazette followed by Notification u/s.6 of the Act published on 14.4.1981 in the Official Gazette.Considering the objections of the claimants raised u/s.9 of the Act, the award u/s.11 of the Act came to be passed on 25.3.1985. The Special Land Acquisition Officer awarded compensation @ Rs.5/- per sq.mtr. for non irrigated land and at Rs.6/- for irrigated land per sq.mtr. The claimants preferred reference u/s.18 of the Act. The Reference Court granted additional compensation of Rs.7.27/- per sq.mtr. for non irrigated land and Rs.8.27/- per sq.mtr. in respect of irrigated land. The Reference Court while granting additional compensation at the aforesaid rates also observed that on the additional amount of compensation interest @ 9% for the first year and interest @ 15% for the remaining years shall be paid to the claimants. It is not in dispute that the possession of the land in question was taken by the respondents under the provisions of the Act on different dates during the year 1977-78.

4 It is stated by Mr.G.M.Amin, learned Advocate for the petitioners that on the additional amount of compensation awarded by the Reference Court the interest @ 9% for the first year and interest @ 15% for the remaining years have been paid to the claimants by the respondents. It is further contended that the interests @ 9% and 15% respectively as above has not been paid on the original amount of compensation awarded by the Special Land Acquisition Officer i.e.@ Rs.5/- per sq.mtr. for non irrigated land and @ Rs.6/- per sq.mtr.. for irrigated land.

5 Prayer in this petition is for direction for payment of interest @ 9% for first year and @ 15% for the remaining years on the original amount of compensation awarded by the Special Land Acquisition Officer. In para 8 of the affidavit-in-reply filed by the respondent it has been stated by the respondent that it is true that the possession of the land was taken in the year 1977 on different dates and that no interest has been given on the amount of compensation awarded and the same is under consideration. In para 2 of the additional affidavit-in-reply it has been stated by the respondents that as per the judgment and award passed in land reference case the authority deposited the amount in the Trial Court in the year 1994, that the respondnts deposited amount as per judgment and award directing the authority to pay the additional amount with running interest @ 9% for first year and @ 15% till the deposit of the amount. The respondents had calculated the same and deposited the amount in the Trial Court in the year 1994.

6 The present writ petition has been necessitated as the Reference Court has directed the payment of interest @ 9% for the first year and @ 15% for the remaining years on the additional amount of compensation i.e. on the amount enhanced by the Reference Court from Rs.5/- and Rs.6/- respectively to Rs.7.25/- and Rs.8.25/- respectively.

7 It is suggested from the affidavit-in-reply referred to above that the interest @ 9% and 15% respectively has not been paid on the original amount awarded by the Special Land Acquisition Officer. The settled legal position in this regard is that the claimants would be entitled to interest @ 9% for the first year and @ 15% for the remaining years till the amount is deposited/paid for the land which has been acquired under the provisions of the Act.

8 In view of the above, the claimants would be entitled to the interest on the original amount awarded by Special Land Acquisition Officer u/s.11 of the Act 9% for the first year and @ 15% for the remaining years from the date of taking of possession by the respondents from the claimants till the deposit/payment of the compensation amount subject to the adjustment of any amount paid by way of advance at the time of taking possession of the land concerned.

9 In the result, the petition is allowed. The respondents are directed to pay the interest on the

original amount of compensation awarded by Special Land Acquisition Officer u/s.11 of the Act @ 9% for the first year and @ 15% for the remaining years from the date of taking of the possession of the land till the payment/deposit of the amount subject to the adjustment of the amount, if any, paid by way of advance at the time of taking of the possession of the land. The respondents shall pay the amount of interest at the aforesaid rates within three months from the date of the receipt of the writ of this order or on production of the certified copy of this order to the respondents. Rule made absolute with no order as to costs.

(N.G.Nandi, J) (D.A.Mehta, J)

m.m.bhatt